

Confidentiality of Tax Information & Sharing Frequently Asked Questions

Q: How confidential are tax records?

A: Access to tax records is limited to the individual taxpayer unless written authorization has been submitted allowing others to gain access to the information. The Department may share confidential tax information with a third party if the taxpayer checks "Yes" on the tax return to the question "May the DOR discuss this return with your tax preparer?" or by submitting a "Power of Attorney" authorizing the release of Montana tax information to someone other than the taxpayer.

Q: If a tax preparer already has a federal Form 2848 (POA) completed by a taxpayer, can this form be used instead of having the taxpayer complete the Montana Form POA?

A: Federal Form 2848 is acceptable if the "Tax matters" section identifies the Montana tax type, form number, and years that the representative is authorized to discuss with the Montana Department of Revenue and specifically states "Montana."

Q: How long is the power of attorney effective?

A: The power of attorney is specific to tax types and tax years and is effective until revoked by the representative or taxpayer.

Q: If I have authorized the Department to discuss my tax return with my tax preparer via the check box on my tax return, does this authorization expire?

A: The authorization automatically ends no later than the due date (without regard to extensions) for filing next year's tax return. For example, if you check the box on your 2009 tax return, the authorization will end on April 15, 2011 (due date for the 2010 return). The authorization on an amended return applies only to the current year and a power of attorney would be required for prior year(s) amended returns.

Q: The Department contacts a tax preparer to address a math error on the current year's income tax return. The preparer asks a question about the taxpayer's prior year return. Can the department answer the preparer's question?

A: No. A Power of Attorney is required to discuss any other taxes that the Department is not currently processing.

Q: If a tax preparer is preparing a current tax return for a client and needs to verify estimated payments and information from a prior year's tax return, can the Department give out this information?

A: No. This information is confidential, and a Power of Attorney would be required.

Q: Under what circumstances is a Power of Attorney required if the taxpayer has already checked "Yes" to the box "May the DOR discuss this return with your tax preparer?" on the return?

A: Any questions or concerns not related to the processing of the current year return or any questions or concerns that apply to matters after the expiration of the authorization granted for that return.

Q: A CPA firm always has their clients/taxpayers check "Yes" for the box "May the DOR discuss this return with your tax preparer?" on their returns. The tax preparer who signed the return has left the firm. Can the Department discuss the return with another tax preparer within the firm?

A: No. A Power of Attorney must be submitted designating a new Third Party Designee.

Q: A client has received an adjustment letter for a tax return that the tax preparer did not prepare and stops by the office to ask about the adjustment letter. Can the Department discuss the adjustment letter while the client is present in the tax preparer's office?

A: If the Department is able to verify the taxpayer is physically present and has granted permission to discuss the adjustment letter, the Department may respond to questions from the preparer concerning the adjustment letter.

Q: What if a client is at home and calls the tax preparer at the office. Can the tax preparer arrange a conference call with Department, the client, and the tax preparer?

A: A completed Power of Attorney would be required in this situation.

Q: May married taxpayers who are filing separately on the same form discuss their spouse's return information?

A: Montana law treats these individuals as separate taxpayers. Only by checking the "Yes" box in the "Third Party Designee" area of the return, are they authorizing each other to discuss the full tax return with the Department. Once this authorization has expired, a Power of Attorney would be required to discuss the spouse's tax return information.

Q: Who is responsible for a minor child's return?

A: Generally, the minor child is responsible for filing his or her own tax return and for paying any tax, penalties, or interest on that return. If a minor child cannot file his or her own return for any reason, such as age, the minor child's parent or guardian is responsible for filing a return on the minor child's behalf.

Q: Who should sign a minor child's return?

A: If the minor child cannot sign his or her return, a parent or guardian can sign the minor child's name in the space provided and add: "By (signature), parent (or guardian) for minor child". The Department can discuss all matters connected with the return with a parent or guardian who has signed a return on behalf of a minor child. In general, the Department cannot discuss the minor child's return with the parent or guardian if the parent or guardian did not sign the minor child's return unless the "Yes" box in the "Third Party Designee" area of the return and name the parent or guardian as the designee has been completed.

Q: An appointed guardian is preparing a tax return for the first time and has questions about the prior year's tax return, can the Department discuss the taxpayer's returns with the appointed guardian?

A: The appointed guardian will need to provide the Department with a copy of the guardianship appointment before the Department could answer questions.

Q: Who is responsible for an incapacitated person's return?

A: If an individual has a filing obligation but is unable to complete and file a tax return because of mental or physical disability, the authorized agent, guardian or person responsible for his/her care and property is responsible for filing a return on his/her behalf. An authorized agent, guardian, or person responsible for an incapacitated person who signs a return on his/her behalf can deal with the Department on all matters connected with the return.